

IN THE SENATE

SENATE BILL NO. 1219

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE JUVENILE CORRECTIONS ACT; AMENDING SECTION 20-501, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SECTION 20-502, IDAHO CODE, TO REVISE DEFINITIONS AND TO REMOVE A DEFINITION; AMENDING SECTION 20-503, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 20-504, IDAHO CODE, TO PROVIDE THE DEPARTMENT OF JUVENILE CORRECTIONS WITH ADDITIONAL DUTIES, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS AND TO REMOVE OBSOLETE LANGUAGE; AMENDING SECTION 20-504A, IDAHO CODE, TO REVISE PROVISIONS RELATING TO STATE JUVENILE CORRECTIONAL CENTERS, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS AND TO REMOVE A DEFINITION; AMENDING SECTION 20-505, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE APPLICATION OF THE JUVENILE CORRECTIONS ACT AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-507, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-508, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-509, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-511, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-511A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-515, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-516, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO REMOVE LANGUAGE RELATING TO A STATEWIDE JUVENILE OFFENDER INFORMATION SYSTEM; AMENDING SECTION 20-517, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS, TO PROVIDE CORRECT TERMINOLOGY, TO REVISE PROVISIONS RELATING TO DETENTION ACCOMMODATIONS FOR JUVENILE OFFENDERS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 20-518, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO REQUIRE THAT JUVENILE DETENTION CENTERS MEET CERTAIN STANDARDS; AMENDING SECTION 20-520, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER, TO REVISE PROVISIONS RELATING TO SENTENCING A JUVENILE OFFENDER AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-521, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-522, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-524, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO REMOVE PROVISIONS RELATING TO CHILD SUPPORT ORDERS AND DECREES; AMENDING SECTION 20-524A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 20-525, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-525A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER, TO PRO-

1 VIDE CORRECT TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
 2 SECTION 20-526, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY  
 3 TO A JUVENILE OFFENDER AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
 4 SECTION 20-528, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO  
 5 A JUVENILE OFFENDER; AMENDING SECTION 20-530, IDAHO CODE, TO CLARIFY  
 6 THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFENDERS; AMENDING SEC-  
 7 TION 20-531, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO  
 8 A JUVENILE OFFENDER; AMENDING SECTION 20-532, IDAHO CODE, TO CLARIFY  
 9 THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION  
 10 20-532A, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JU-  
 11 VENILE OFFENDER; AMENDING SECTION 20-533, IDAHO CODE, TO CLARIFY THAT  
 12 CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO MAKE TECHNICAL  
 13 CORRECTIONS; AMENDING SECTION 20-533A, IDAHO CODE, TO CLARIFY THAT CER-  
 14 TAIN PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-535,  
 15 IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OF-  
 16 FENDERS; AMENDING SECTION 20-539A, IDAHO CODE, TO CLARIFY THAT CERTAIN  
 17 PROVISIONS APPLY TO A JUVENILE OFFENDER; AMENDING SECTION 20-542, IDAHO  
 18 CODE, TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO JUVENILE OFFEND-  
 19 ERS; AMENDING SECTION 20-547, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE;  
 20 AMENDING SECTION 20-548, IDAHO CODE, TO CLARIFY THAT CERTAIN PROVISIONS  
 21 APPLY TO A JUVENILE OFFENDER; AND AMENDING SECTION 20-549, IDAHO CODE,  
 22 TO CLARIFY THAT CERTAIN PROVISIONS APPLY TO A JUVENILE OFFENDER AND TO  
 23 REVISE PROVISIONS RELATING TO CURFEW VIOLATIONS.

24 Be It Enacted by the Legislature of the State of Idaho:

25 SECTION 1. That Section 20-501, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 20-501. LEGISLATIVE INTENT. It is the policy of the state of Idaho that  
 28 the juvenile corrections system will be based on the following principles:  
 29 accountability; community protection; and competency development. Where  
 30 a juvenile has been found to be within the purview of the juvenile correc-  
 31 tions act, the court shall impose a sentence that will protect the community,  
 32 hold the juvenile offender accountable for his actions, and assist the ju-  
 33 venile offender in developing skills to become a contributing member of  
 34 a diverse community. It is the further policy of the state of Idaho that  
 35 the parents or other legal guardians of the juvenile offender participate  
 36 in the accomplishment of these goals through participation in counseling  
 37 and treatment designed to develop positive parenting skills and an under-  
 38 standing of the family's role in the juvenile's offender's behavior. It is  
 39 the further intent of the legislature that the parents or legal guardians  
 40 of the juvenile offender be held accountable, where appropriate, through  
 41 monetary reimbursement for supervision and confinement of the juvenile of-  
 42 fender, and restitution to victims of the juvenile's offender's delinquent  
 43 acts. In enacting this legislation, the legislature finds that the juvenile  
 44 corrections system should encompass the following aspects: day treat-  
 45 ment, community programs, observation and assessment programs, probation  
 46 services, secure facilities, after-care and assistance to counties for ju-  
 47 veniles offenders not committed to the custody of the department of juvenile  
 48 corrections.

1       The following is a brief description of what the legislature intends to  
2 become the components of Idaho's juvenile corrections system:

3       Probation. Probation officers would have twenty-four (24) hour on call  
4 responsibility for juveniles offenders and would monitor their activities  
5 on a continual basis. Probation officers would be responsible for assisting  
6 juveniles offenders and their families in accessing counseling or treatment  
7 resources, close supervision of juveniles' offenders' activities, supervi-  
8 sion of restitution and coordination of other services provided to juveniles  
9 offenders. Juvenile offenders ordered into the custody of the department of  
10 juvenile corrections would be monitored by a county probation officer.

11       Day treatment. Day treatment programs would be time limited nonres-  
12 idential treatment and educational programs. Included in these programs  
13 would be trackers who would provide intensive supervision of juveniles  
14 offenders through daily contact and by counseling juveniles offenders  
15 regarding employment, education, courts, family and life skills. Nonresi-  
16 dential alcohol and drug programs would provide outpatient assessment and  
17 counseling for juveniles offenders with substance abuse problems.

18       Community programs. It is intended that community programs would ex-  
19 ist throughout the state to provide twenty-four (24) hour residential su-  
20 pervision and treatment options to juveniles offenders in close proximity to  
21 their families and their community. It is intended that these programs would  
22 strengthen the juvenile's offender's relationship with family, engender a  
23 commitment to school and employment, promote the development of competency  
24 and life skills and help juveniles offenders generalize appropriate behav-  
25 ior into their environment.

26       Observation and assessment. Regional observation and assessment cen-  
27 ters would be provided, either directly or on a contract basis, to conduct  
28 observation and assessment of the juvenile offender in a short-term resi-  
29 dential experience. It is intended that these programs would maintain stan-  
30 dardized home and daily routines with intensive daily programming.

31       Secure facilities. Secure facilities would provide secure confine-  
32 ment, discipline, education and treatment of the most seriously delinquent  
33 juveniles offenders. Programs at the secure facilities would be designed  
34 to help juveniles offenders recognize accountability for delinquent behav-  
35 ior by confronting and eliminating delinquent norms, criminal thinking and  
36 antisocial behavior and making restitution to victims through community  
37 service or other restitution programs.

38       It is the further intent of the legislature that the primary purpose  
39 of this act is to provide a continuum of programs which emphasize the juve-  
40 nile offender's accountability for his actions while assisting him in the  
41 development of skills necessary to function effectively and positively in  
42 the community in a manner consistent with public safety. These services and  
43 programs will individualize treatment and control of the juvenile offender  
44 for the benefit of the juvenile offender and the protection of society. It is  
45 legislative intent that the department of juvenile corrections be operated  
46 within the framework of the following principles to accomplish this mission:

47       (1) Provide humane, disciplined confinement to a juvenile offender who  
48 presents a danger to the community.

1 (2) Strengthen opportunities for the juvenile's offender's develop-  
 2 ment of competency and life skills by expanding the juvenile's offender's  
 3 access to applicable programs and community resources.

4 (3) Hold juveniles offenders accountable for their delinquent behavior  
 5 through such means as victim restitution, community service programs and the  
 6 sharing of correctional costs.

7 (4) Invoke the participation of the juvenile offender's parent or legal  
 8 guardian in assisting the juvenile offender to recognize and accept respon-  
 9 sibility for his delinquent or other antisocial behavior and hold the parent  
 10 or legal guardian accountable, where appropriate, through the payment of de-  
 11 tention costs and restitution to victims and through attendance at programs  
 12 for the development of positive parenting skills designed to promote a func-  
 13 tional relationship between the juvenile offender and his family.

14 (5) Develop efficient and effective juvenile correctional programs  
 15 within the framework of professional correctional standards, legislative  
 16 intent and available resources.

17 (6) Provide for a diversity of innovative and effective programs  
 18 through research on delinquent behavior and the continuous evaluation of  
 19 correctional programs.

20 (7) Assist counties in developing meaningful programs for juveniles  
 21 offenders who have come into the juvenile corrections system but who have not  
 22 been committed to the custody of the department of juvenile corrections.

23 (8) Provide programs to increase public awareness of the mission of the  
 24 juvenile corrections system and encourage public participation in develop-  
 25 ing an effective juvenile corrections system designed to aid in reducing ju-  
 26 venile crime in this state.

27 (9) Develop and maintain a statewide juvenile offender information  
 28 system.

29 SECTION 2. That Section 20-502, Idaho Code, be, and the same is hereby  
 30 amended to read as follows:

31 20-502. DEFINITIONS. When used in this chapter, unless the context  
 32 otherwise requires:

33 (1) "Adult" means a person eighteen (18) years of age or older.

34 (2) "Commit" means to transfer legal custody.

35 (3) "Community-based program" means an in-home confinement program or  
 36 a nonsecure or staff secure residential or nonresidential program operated  
 37 to supervise and provide competency development to juvenile offenders in the  
 38 least restrictive setting, consistent with public safety, operated by the  
 39 state or under contract with the state or by the county.

40 (4) "Court" means any district court within the state of Idaho, or mag-  
 41 istrate's division thereof.

42 (5) "Department" means the state department of juvenile corrections.

43 (6) "Detention" means the temporary placement of juveniles offenders  
 44 who require secure custody for their own or the community's protection in  
 45 physically restricting facilities.

46 (7) ~~"Detention center" means a facility established pursuant to sec-~~  
 47 ~~tions 20-517 and 20-518, Idaho Code.~~

48 ~~(8) "Director" means the director of the department of juvenile correc-~~  
 49 ~~tions.~~

(98) "Diversion" means the utilization of local community resources, churches, counseling for the juvenile offender and/or family, substance abuse counseling, informal probation, community service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.

(109) "Judge" means a district judge or a magistrate.

(110) "Juvenile" means a person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any alleged act, omission or status ~~bringing the person within the purview of this chapter.~~

(121) "Juvenile ~~corrections~~ correctional center" means any state-operated ~~secure residential facility wherever located~~ or facility operated pursuant to a contract with the state that provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

(12) "Juvenile detention center" means a secure facility established pursuant to sections 20-517 and 20-518, Idaho Code, and in compliance with IDAPA 05.01.02.

(13) "Juvenile offender" means a person under the age of eighteen (18), ~~committed by the court to the custody, care and jurisdiction of the department for confinement in a secure or community-based facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult at the time of any act, omission or status and who has been adjudicated as being within the purview of this chapter.~~

(14) "Legal custody" means the relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile offender, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

(15) "Legal guardian" means a person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner, operator or the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender.

(16) "Observation and assessment program" means any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment.

(17) "Secure facility" means any architecturally secure ~~state-operated residential facility or facility operated under contract with the state which that~~ provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

(18) "Staff secure facility" means a nonarchitecturally secure residential facility with awake staff twenty-four (24) hours a day, seven (7) days a week for intensive supervision of juveniles offenders.

(19) "Work program" means a public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

SECTION 3. That Section 20-503, Idaho Code, be, and the same is hereby amended to read as follows:

1        20-503. DEPARTMENT OF JUVENILE CORRECTIONS CREATED -- APPOINTMENT OF  
 2 DIRECTOR -- POWERS AND DUTIES OF DEPARTMENT. (1) The department of juvenile  
 3 corrections is hereby created. The department shall, for the purposes of  
 4 section 20, article IV, of the constitution of the state of Idaho, be an execu-  
 5 tive department of the state government.

6        (2) The department shall be under the control and supervision of a di-  
 7 rector, who shall be appointed by the governor, with the advice and consent  
 8 of the senate. The director shall exercise all of the powers and duties nec-  
 9 cessary to carry out the proper administration of the department and may dele-  
 10 gate duties to employees and officers of the department. The director shall  
 11 have the authority to employ an attorney or attorneys to provide legal ser-  
 12 vices to the department and such managers, assistants, clerical staff and  
 13 other employees necessary to the proper functioning and administration of  
 14 the department.

15        (3) The department of juvenile corrections shall be composed of such  
 16 administrative units as may be established by the director for the proper and  
 17 efficient administration of the powers and duties assigned to the director  
 18 or the department. The director shall appoint an administrator for each ad-  
 19 ministrative unit within the department.

20        (4) The director shall have full power and authority to do all things  
 21 necessary to establish and provide for the administration and operation of  
 22 the department of juvenile corrections and to accomplish an orderly transi-  
 23 tion to the department of juvenile corrections and the counties of the duties  
 24 and responsibilities for juvenile offenders and the juvenile justice system  
 25 being performed by the department of health and welfare. It is intended that  
 26 the director and staff of the department of health and welfare work coopera-  
 27 tively with the director and staff of the department of juvenile corrections  
 28 and the counties in this effort, while continuing with their duties to juve-  
 29 nile offenders in the custody of the department of health and welfare until  
 30 the official transfer of such duties to the department of juvenile correc-  
 31 tions and the counties on October 1, 1995.

32        ~~(5) Effective October 1, 1995, all existing commitments to the depart-~~  
 33 ~~ment of health and welfare made pursuant to section 16-1814(1)6., Idaho~~  
 34 ~~Code, are hereby transferred to the department of juvenile corrections. All~~  
 35 ~~powers, duties and functions with respect to those commitments are hereby~~  
 36 ~~transferred from the department of health and welfare to the department of~~  
 37 ~~juvenile corrections. The director of the department of juvenile correc-~~  
 38 ~~tions shall have all the powers and duties as may have been or could have been~~  
 39 ~~exercised by his predecessors in law pursuant to these commitments and he~~  
 40 ~~shall be the successor in law to those commitment duties without regard to~~  
 41 ~~the language of individual judicial orders of commitment for the juveniles.~~

42        SECTION 4. That Section 20-504, Idaho Code, be, and the same is hereby  
 43 amended to read as follows:

44        20-504. DUTIES OF THE DEPARTMENT OF JUVENILE CORRECTIONS. (1) The de-  
 45 partment shall have jurisdiction over all juveniles offenders committed to  
 46 it pursuant to chapter 5, title 20, Idaho Code.

47        (2) The department shall have legal custody over all juvenile offenders  
 48 committed to it by the courts of this state for confinement. The department  
 49 shall not have legal guardianship of any juvenile offender.

1       (3) The department is responsible for all juvenile offenders commit-  
 2       ted to it by the courts of this state for confinement. The department shall  
 3       also establish minimum standards for detention, care and certification of  
 4       approved detention facilities based upon such standards.

5       (34) The department shall establish and administer all secure residen-  
 6       tial facilities including all state juvenile ~~corrections~~ correctional cen-  
 7       ters.

8       (45) The department shall make all decisions regarding placement of ju-  
 9       venile offenders committed to it in the most appropriate program for super-  
 10      vision and treatment.

11      (56) The department shall establish an observation and assessment  
 12      process for juvenile offenders committed to it by a court.

13      (67) The department shall establish liaison services with the counties  
 14      or within the department's regions.

15      (78) The department may establish and operate work programs designed  
 16      to employ juvenile offenders committed to it in public service work projects  
 17      for the purpose of reimbursing victims of the juvenile offender's delinquent  
 18      behavior.

19      (89) The department is hereby authorized and may place juveniles  
 20      offenders committed to it pursuant to this chapter in a community-based or  
 21      private program; provided, that the person, agency or association operating  
 22      the facility or program has been approved and has otherwise complied with all  
 23      applicable state and local laws.

24      (910) The department shall establish minimum standards for the opera-  
 25      tion of all private residential and nonresidential facilities and programs  
 26      ~~which~~ that provide services to juvenile offenders committed to the depart-  
 27      ment. The standards shall be no more stringent than standards imposed for  
 28      facilities operated by the department or for detention facilities operated  
 29      by counties.

30      (101) The department shall provide technical assistance to counties es-  
 31      tablishing research-based programs for juveniles offenders who either have  
 32      been found to come under the purview of this chapter or who have had their  
 33      case informally diverted pursuant to section 20-511, Idaho Code, and who  
 34      have not been committed to the legal custody of the department.

35      (112) The department shall have authority to adopt such administrative  
 36      rules pursuant to the procedures provided in chapter 52, title 67, Idaho  
 37      Code, as are deemed necessary or appropriate for the functioning of the de-  
 38      partment and the implementation and administration of this act.

39      (123) Subject to any competitive bidding requirements otherwise pro-  
 40      vided by law, the department shall have authority to enter into contracts  
 41      with a private association or organization or other public agency or organi-  
 42      zation for the inspection and licensure of detention facilities.

43      (134) Subject to any competitive bidding requirements otherwise pro-  
 44      vided by law, the department shall have authority to enter into contracts  
 45      with private providers or local governmental agencies for the confinement or  
 46      other permanent or temporary placement of juveniles offenders committed to  
 47      its custody.

48      (145) The department shall have authority to apply for, receive and  
 49      expend federal funds, subject to appropriation by the legislature. The  
 50      department shall have authority to establish guidelines for and administer

1 the distribution of state juvenile corrections act funds to counties for the  
 2 employment and training of county probation officers, the establishment of  
 3 secure and nonsecure residential or nonresidential facilities and programs  
 4 for juvenile offenders. The department may require that a county provide  
 5 matching funds as a condition of receiving juvenile corrections act funds.  
 6 The department, by rule, in cooperation with the courts and the counties,  
 7 shall establish uniform standards for county juvenile probation services,  
 8 as well as qualifications for and standards for the training of juvenile  
 9 probation officers.

10 ~~(15) All of the powers and duties imposed upon or granted to the director~~  
 11 ~~of the department of health and welfare or the board of health and welfare~~  
 12 ~~pursuant to chapter 18, title 16, Idaho Code, are hereby transferred to the~~  
 13 ~~director of the department of juvenile corrections. The director shall have~~  
 14 ~~all such powers and duties as may have been or could have been exercised by~~  
 15 ~~his predecessors in law with respect to chapter 18, title 16, Idaho Code, and~~  
 16 ~~shall be the successor in law to all contractual obligations entered into by~~  
 17 ~~his predecessor in law.~~

18 SECTION 5. That Section 20-504A, Idaho Code, be, and the same is hereby  
 19 amended to read as follows:

20 20-504A. STATE JUVENILE CORRECTIONS CORRECTIONAL CENTERS -- PURPOSES  
 21 -- POWERS AND DUTIES OF THE DEPARTMENT AND THE DIRECTOR. (1) The purposes of a  
 22 juvenile corrections correctional center shall be:

23 (a) The care, control and competency development of adjudicated juve-  
 24 nile offenders meeting standards for admission as adopted by the Idaho  
 25 supreme court;

26 (b) The provision pursuant to agreement with the counties of detention  
 27 services for juveniles offenders subject to administrative or court or-  
 28 der;

29 (c) The provision of observation and assessment services for juveniles  
 30 offenders committed to the department of juvenile corrections; and

31 (d) To accept for placement those individuals sentenced to a state ju-  
 32 venile corrections correctional center by a district court, or pursuant  
 33 to agreement with the board of correction, subsequent to waiver of juve-  
 34 nile court jurisdiction.

35 (2) The department shall administer and provide general oversight of  
 36 all state juvenile corrections correctional centers and any other secure or  
 37 nonsecure facilities holding juvenile offenders committed to it as required  
 38 by the juvenile corrections act.

39 (3) The department shall assure that the educational programs of state  
 40 juvenile corrections correctional centers are in compliance with educa-  
 41 tional standards ~~for secure juvenile facilities which that~~ are approved by  
 42 the Idaho state board of education or an accrediting association recognized  
 43 by the Idaho state board of education.

44 (4) The department shall have the power to promulgate rules in accor-  
 45 dance with the provisions of chapter 52, title 67, Idaho Code, for the admin-  
 46 istration and operation of state juvenile corrections correctional centers.

47 (5) The director shall have the power:

48 (a) To employ, fix the salary and prescribe the duties of a superinten-  
 49 dent for each juvenile corrections correctional center. The superin-



tendent shall be a nonclassified employee and shall serve at the pleasure of the director. With the advice of the director, the superintendent may appoint and prescribe the duties of assistants, instructors, specialists and other employees required for the operation of the center;

(b) To remove any employee of a juvenile ~~corrections~~ correctional center for cause ~~or as allowed by chapter 53, title 67, Idaho Code;~~

(c) To ensure that all teachers, except specialists, hold teaching certificates issued under the authority of the state board of education which are valid for the grades and subjects taught. All specialists shall hold diplomas from an accredited school of their specialty;

(d) To have, at all times, general supervision and control of all property, real and personal, appertaining to the center, and to insure the same; and

(e) To expend tax moneys appropriated, or otherwise placed to the credit of the center for maintenance and operation and to account for the same as prescribed by law.

~~(6) Wherever the term "State Youth Training Center" or "State Youth Services Center" shall appear in the Idaho Code it shall mean any state juvenile corrections center.~~

SECTION 6. That Section 20-505, Idaho Code, be, and the same is hereby amended to read as follows:

20-505. JURISDICTION. Subject to the prior jurisdiction of the United States, the court shall have exclusive, original jurisdiction over any juvenile and over any adult who was a juvenile at the time of any act, omission or status, in the county in which the juvenile resides, or in the county in which the act, omission or status allegedly took place, in the following cases:

(1) Where the act, omission or status occurs in the state of Idaho and is prohibited by federal, state, local or municipal law or ordinance by reason of minority only;

(2) Where the act or omission occurs in the state of Idaho and is a violation of any federal, state, local or municipal law or ordinance which would be a crime if committed by an adult;

(3) Concerning any juvenile where the juvenile comes under the purview of the interstate compact ~~on~~ for juveniles as set forth in chapter 19, title 16, Idaho Code;

(4) This chapter shall not apply to juvenile violators of beer, wine or other alcohol and tobacco laws; except that a juvenile violator under the age of eighteen (18) years at the time of the violation may, at the discretion of the court, be treated under the provisions of this chapter;

(5) This chapter shall not apply to the ~~violent~~ juvenile offenders who are transferred for criminal prosecution as an adult, as defined provided in this chapter;

(6) This chapter shall not apply to juvenile violators of traffic, watercraft, fish and game, failure to obey a misdemeanor citation and criminal contempt laws; except that a juvenile violator under the age of eighteen (18) years at the time of such violation may, at the discretion of the court, be treated under the provisions of this chapter;

1 (7) This chapter shall not apply to juvenile sex offenders who violate  
2 the provisions of section 18-8414, Idaho Code.

3 SECTION 7. That Section 20-507, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 20-507. RETENTION OF JURISDICTION. Jurisdiction obtained by the court  
6 in the case of a juvenile offender shall be retained by it for the purposes  
7 of this act until he becomes twenty-one (21) years of age, unless terminated  
8 prior thereto. If a juvenile offender under the jurisdiction of the court  
9 and after attaining eighteen (18) years of age, is charged with a felony, he  
10 shall be treated as any other adult offender. If a person eighteen (18) years  
11 of age or older already under court jurisdiction is convicted of a felony,  
12 that conviction shall terminate the jurisdiction of the court, provided,  
13 however, ~~that~~ nothing herein contained shall prohibit any court from pro-  
14 ceeding as provided in section 20-508(2), Idaho Code.

15 SECTION 8. That Section 20-508, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 20-508. WAIVER OF JURISDICTION AND TRANSFER TO OTHER COURTS. (1) After  
18 the filing of a petition and after full investigation and hearing, the court  
19 may waive jurisdiction under the juvenile corrections act over the juvenile  
20 and order that the juvenile be held for adult criminal proceedings when:

21 (a) A juvenile is alleged to have committed any of the crimes enumerated  
22 in section 20-509, Idaho Code; or

23 (b) A juvenile is alleged to have committed an act other than those enu-  
24 merated in section 20-509, Idaho Code, after the child became fourteen  
25 (14) years of age which would be a crime if committed by an adult; or

26 (c) An adult at the time of the filing of the petition is alleged to have  
27 committed an act prior to his having become eighteen (18) years of age  
28 which would be a felony if committed by an adult, and the court finds  
29 that the adult is not committable to an institution for people with  
30 intellectual disabilities or mental illness, is not treatable in any  
31 available institution or facility available to the state designed for  
32 the care and treatment of juveniles, or that the safety of the community  
33 requires the adult continue under restraint; or

34 (d) An adult already under the jurisdiction of the court is alleged to  
35 have committed a crime while an adult.

36 (2) A motion to waive jurisdiction under the juvenile corrections act  
37 and prosecute a juvenile under the criminal law may be made by the prosecut-  
38 ing attorney, the juvenile, or by motion of the court upon its own initia-  
39 tive. The motion shall be in writing and contain the grounds and reasons in  
40 support thereof.

41 (3) Upon the filing of a motion to waive jurisdiction under the juvenile  
42 corrections act, the court shall enter an order setting the motion for hear-  
43 ing at a time and date certain and shall order a full and complete investi-  
44 gation of the circumstances of the alleged offense to be conducted by county  
45 probation, or such other agency or investigation officer designated by the  
46 court.

1 (4) Upon setting the time for the hearing upon the motion to waive ju-  
2 risdiction, the court shall give written notice of said hearing to the juve-  
3 nile, and the parents, guardian or custodian of the juvenile, and the prose-  
4 cuting attorney, at least ten (10) days before the date of the hearing, or a  
5 lesser period stipulated by the parties, and such notice shall inform the ju-  
6 venile and the parents, guardian or custodian of the juvenile of their right  
7 to court appointed counsel. Service of the notice shall be made in the manner  
8 prescribed for service of a summons under section 20-512, Idaho Code.

9 (5) The hearing upon the motion to waive jurisdiction shall be held in  
10 the same manner as an evidentiary hearing upon the original petition and  
11 shall be made part of the record.

12 (6) If as a result of the hearing on the motion to waive jurisdiction  
13 the court shall determine that jurisdiction should not be waived, the peti-  
14 tion shall be processed in the customary manner as a juvenile corrections act  
15 proceeding. However, in the event the court determines, as a result of the  
16 hearing, that juvenile corrections act jurisdiction should be waived and the  
17 juvenile should be prosecuted under the criminal laws of the state of Idaho,  
18 the court shall enter findings of fact and conclusions of law upon which it  
19 bases such decision together with a decree waiving juvenile corrections act  
20 jurisdiction and binding the juvenile over to the authorities for prosecu-  
21 tion under the criminal laws of the state of Idaho.

22 (7) No motion to waive juvenile corrections act jurisdiction shall be  
23 recognized, considered, or heard by the court in the same case once the court  
24 has entered an order or decree in that case that said juvenile has come within  
25 the purview of the juvenile corrections act, and all subsequent proceedings  
26 after the decree finding the juvenile within the purview of the act must be  
27 under and pursuant to the act and not as a criminal proceeding.

28 (8) In considering whether or not to waive juvenile court jurisdiction  
29 over the juvenile, the juvenile court shall consider the following factors:

30 (a) The seriousness of the offense and whether the protection of the  
31 community requires isolation of the juvenile beyond that afforded by  
32 juvenile facilities;

33 (b) Whether the alleged offense was committed in an aggressive, vio-  
34 lent, premeditated, or willful manner;

35 (c) Whether the alleged offense was against persons or property,  
36 greater weight being given to offenses against persons;

37 (d) The maturity of the juvenile as determined by considerations of his  
38 home, environment, emotional attitude, and pattern of living;

39 (e) The juvenile's record and previous history of contacts with the ju-  
40 venile corrections system;

41 (f) The likelihood that the juvenile will develop competency and life  
42 skills to become a contributing member of the community by use of facil-  
43 ities and resources available to the court;

44 (g) The amount of weight to be given to each of the factors listed in  
45 subsection (8) of this section is discretionary with the court, and a  
46 determination that the juvenile is not a fit and proper subject to be  
47 dealt with under the juvenile court law may be based on any one (1) or  
48 a combination of the factors set forth ~~above~~ within this section, which  
49 shall be recited in the order of waiver.

(9) If the court does not waive jurisdiction and order a juvenile or adult held for criminal proceedings, the court in a county other than the juvenile's or adult's home county, after entering a decree that the juvenile or adult is within the purview of this chapter, may certify the case for sentencing to the court of the county in which the juvenile offender or adult resides upon being notified that the receiving court is willing to accept transfer. In the event of a transfer, which should be made unless the court finds it contrary to the interest of the juvenile offender or adult, the jurisdiction of the receiving court shall attach to the same extent as if the court had original jurisdiction.

(10) Upon conviction of a juvenile offender held for adult criminal proceedings under this section, the sentencing judge may, if a finding is made that adult sentencing measures would be inappropriate:

(a) Sentence the convicted person in accordance with the juvenile sentencing options set forth in this chapter; or

(b) Sentence the convicted person to the county jail or to the custody of the state board of correction but suspend the sentence or withhold judgment pursuant to section 19-2601, Idaho Code, and commit the defendant to the custody of the department of juvenile corrections for an indeterminate period of time in accordance with section 20-520(1)(r), Idaho Code. The court, in its discretion, may order that the suspended sentence or withheld judgment be conditioned upon the convicted person's full compliance with all reasonable program requirements of the department of juvenile corrections. Such a sentence may also set terms of probation, which may be served under the supervision of county juvenile probation. However, in no event may the total of the actual time spent by the convicted person in the custody of the department plus any adult sentence imposed by the court exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(c) If a convicted person is given a suspended sentence or withheld judgment conditioned upon the convicted person's compliance with all reasonable program requirements of the department pursuant to paragraph (b) of this subsection, and if the department reasonably believes that the convicted person is failing to comply with all reasonable program requirements, the department may petition the sentencing court to revoke the commitment to the department and transfer the convicted person to the county jail or to the custody of the state board of correction for the remainder of the sentence.

SECTION 9. That Section 20-509, Idaho Code, be, and the same is hereby amended to read as follows:

20-509. VIOLENT OFFENSES, CONTROLLED SUBSTANCES VIOLATIONS NEAR SCHOOLS AND OFFENDERS. (1) Any juvenile, age fourteen (14) years to age eighteen (18) years, who is alleged to have committed any of the following crimes or any person under age fourteen (14) years who is alleged to have committed any of the following crimes and, pursuant to section 20-508, Idaho Code, has been ordered by the court to be held for adult criminal proceedings:

(a) Murder of any degree or attempted murder;

(b) Robbery;

(c) Rape as defined in section 18-6101, Idaho Code;

- 1 (d) Male rape as defined in section 18-6108, Idaho Code;
- 2 (e) Forcible sexual penetration by the use of a foreign object;
- 3 (f) Infamous crimes against nature, committed by force or violence;
- 4 (g) Mayhem;
- 5 (h) Assault or battery with the intent to commit any of the above seri-
- 6 ous felonies;
- 7 (i) A violation of the provisions of section 37-2732(a)(1)(A), (B) or
- 8 (C), Idaho Code, when the violation occurred on or within one thousand
- 9 (1,000) feet of the property of any public or private primary or sec-
- 10 ondary school, or in those portions of any building, park, stadium or
- 11 other structure or grounds which were, at the time of the violation, be-
- 12 ing used for an activity sponsored by or through such a school;
- 13 (j) Arson in the first degree and aggravated arson;

14 shall be charged, arrested and proceeded against by complaint, indictment  
 15 or information as an adult. All other felonies or misdemeanors charged in  
 16 the complaint, indictment or information, which are based on the same act  
 17 or transaction or on one (1) or more acts or transactions as the violent  
 18 or controlled substances offense shall similarly be charged, arrested and  
 19 proceeded against as an adult. Any juvenile proceeded against pursuant to  
 20 this section shall be accorded all constitutional rights, including bail and  
 21 trial by jury, and procedural safeguards as if that juvenile were an adult  
 22 defendant.

23 (2) Once a juvenile has been formally charged or indicted pursuant to  
 24 this section or has been transferred for criminal prosecution as an adult  
 25 pursuant to the waiver provisions of section 20-508, Idaho Code, or this sec-  
 26 tion, the juvenile shall be held in a county jail or other adult prison facil-  
 27 ity unless the court, after finding good cause, orders otherwise.

28 (3) Except as otherwise allowed by subsection (4) of this section,  
 29 once a juvenile offender has been found to have committed the offense for  
 30 which the juvenile offender was charged, indicted or transferred pursuant  
 31 to this section or section 20-508, Idaho Code, or has been found guilty or  
 32 pled guilty to a lesser offense or amended charge growing out of or included  
 33 within the original charge, whether or not such lesser offense or amended  
 34 charge is included within the acts enumerated in subsection (1) of this sec-  
 35 tion, the juvenile offender shall thereafter be handled in every respect as  
 36 an adult. For any subsequent violation of Idaho law, the juvenile offender  
 37 shall be handled in every respect as an adult.

38 (4) Upon the conviction of a juvenile offender pursuant to this sec-  
 39 tion, the sentencing judge may, if a finding is made that adult sentencing  
 40 measures would be inappropriate:

41 (a) Sentence the convicted person in accordance with the juvenile sen-  
 42 tencing options set forth in this chapter; or

43 (b) Sentence the convicted person to the county jail or to the custody  
 44 of the state board of correction but suspend the sentence or withhold  
 45 judgment pursuant to section 19-2601, Idaho Code, and commit the de-  
 46 fendant to the custody of the department of juvenile corrections for an  
 47 indeterminate period of time in accordance with section 20-520(1)(r),  
 48 Idaho Code. The court, in its discretion, may order that the suspended  
 49 sentence or withheld judgment be conditioned upon the convicted per-  
 50 son's full compliance with all reasonable program requirements of the

department of juvenile corrections. Such a sentence may also set terms of probation, which may be served under the supervision of county juvenile probation. However, in no event may the total of the actual time spent by the convicted person in the custody of the department plus any adult sentence imposed by the court exceed the maximum period of imprisonment that could be imposed on an adult convicted of the same crime.

(c) If a convicted person is given a suspended sentence or withheld judgment conditioned upon the convicted person's compliance with all reasonable program requirements of the department pursuant to paragraph (b) of this subsection, and if the department reasonably believes that the convicted person is failing to comply with all reasonable program requirements, the department may petition the sentencing court to revoke the commitment to the department and transfer the convicted person to the county jail or to the custody of the state board of correction for the remainder of the sentence.

SECTION 10. That Section 20-511, Idaho Code, be, and the same is hereby amended to read as follows:

20-511. DIVERSION OR INFORMAL DISPOSITION OF THE PETITION. (1) Prior to the filing of any petition under this act, the prosecuting attorney may request a preliminary inquiry from the county probation officer to determine whether the interest of the public or the juvenile requires a formal court proceeding. If court action is not required, the prosecuting attorney may utilize the diversion process and refer the case directly to the county probation officer or a community-based diversion program for informal probation and counseling. If community service is going to be utilized pursuant to this subsection, the prosecuting attorney shall collect a fee of sixty cents (60¢) per hour for each hour of community service work the juvenile is going to perform and remit the fee to the state insurance fund for the purpose of securing worker's compensation insurance for the juvenile offender performing community service. However, if a county is self-insured and provides worker's compensation insurance for persons performing community service pursuant to the provisions of this chapter, then remittance to the state insurance fund is not required.

(2) After the petition has been filed and where, at the admission or denial hearing, the juvenile offender admits to the allegations contained in the petition, the court may decide to make an informal adjustment of the petition. Informal adjustment includes, but is not limited to:

- (a) Reprimand of the juvenile offender;
- (b) Informal supervision with the probation department;
- (c) Community service work;
- (d) Restitution to the victim;
- (e) Participation in a community-based diversion program.

(3) Information uniquely identifying the juvenile offender, the offense, and the type of program utilized shall be forwarded to the department. This information shall be maintained by the department in a statewide juvenile offender information system. Access to the information shall be controlled by the department, subject to the provisions of section 9-342, Idaho Code.

1        Such informal adjustment of the petition shall be conducted in the man-  
2 ner prescribed by the Idaho juvenile rules. When an informal adjustment  
3 is made pursuant to this section and the juvenile offender is to perform  
4 community service work, the court shall assess the juvenile offender a fee  
5 of sixty cents (60¢) per hour for each hour of community service work the  
6 juvenile offender is to perform. This fee shall be remitted by the court to  
7 the state insurance fund for the purpose of securing worker's compensation  
8 insurance for the juvenile offender performing community service. However,  
9 if a county is self-insured and provides worker's compensation insurance  
10 for persons performing community service pursuant to the provisions of this  
11 chapter, then remittance to the state insurance fund is not required.

12        SECTION 11. That Section 20-511A, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14        20-511A. MENTAL HEALTH ASSESSMENTS AND PLANS OF TREATMENT. (1) A judge  
15 of any court shall order the department of health and welfare to submit ap-  
16 propriate mental health assessments and a plan of treatment for the court's  
17 approval if at any stage of a proceeding under this chapter or the child pro-  
18 tective act, chapter 16, title 16, Idaho Code, a judge has reason to believe,  
19 based upon the record and proceedings of the court or upon an affidavit of a  
20 party, state or county agency or any person having physical custody of the  
21 juvenile or juvenile offender, that ~~the juvenile~~ he or she:

22        (a) Is suffering a substantial increase or persistence of a serious  
23 emotional disturbance as defined in section 16-2403, Idaho Code, which  
24 impairs his or her ability to comply with the orders and directives of  
25 the court, or which presents a risk to ~~the juvenile's~~ his or her safety  
26 or well-being or the safety of others; and

27        (b) Such condition has not been adequately addressed with supportive  
28 services and/or corrective measures previously provided to the juve-  
29 nile, or the juvenile's needs with respect to the serious emotional dis-  
30 turbance are not being met or have not been met.

31        (2) The court may convene a screening team consisting of representa-  
32 tives from the department of health and welfare, county probation, local  
33 school officials, teen early intervention specialists as provided for un-  
34 der section 16-2404A, Idaho Code, the department of juvenile corrections  
35 and/or other agencies or persons designated by the court to review the plan  
36 of treatment and provide written recommendations to the court. Parents  
37 and guardians of the juvenile or juvenile offender, if available, shall  
38 be included in the screening team and consulted with regard to the plan of  
39 treatment.

40        (3) If the court, after receiving the mental health assessment and plan  
41 of treatment submitted by the department of health and welfare and any recom-  
42 mendations from the screening team, determines that additional information  
43 is necessary to determine whether the conditions set forth in subsections  
44 (1) (a) and (1) (b) of this section are present, or to determine an appropriate  
45 plan of treatment for the juvenile or juvenile offender, the court may order  
46 an evaluation and/or recommendations for treatment to be furnished by a psy-  
47 chiatrist, licensed physician or licensed psychologist, with the expenses  
48 of such evaluation and/or recommendations to be borne by the department of  
49 health and welfare.

1 (4) If the court concludes that the conditions set forth in subsections  
 2 (1) (a) and (1) (b) of this section are present, the plan of treatment, as  
 3 approved by the court, shall be entered into the record as an order of the  
 4 court. The department of health and welfare shall provide mental health  
 5 treatment as designated by the approved plan of treatment. If in-patient  
 6 or residential treatment is required as part of the plan of treatment, the  
 7 court shall hold a hearing on whether to order such treatment unless the  
 8 hearing is waived by the juvenile or juvenile offender and ~~the juvenile's his~~  
 9 or her parents or guardians. The court may order parents, legal guardians  
 10 or custodians to adhere to the treatment designated in the plan of treat-  
 11 ment. Representatives from the department of health and welfare, county  
 12 probation, local school officials, teen early intervention specialists as  
 13 provided for under section 16-2404A, Idaho Code, the department of juvenile  
 14 corrections and/or other agencies or persons designated by the court shall  
 15 attend case review hearings as scheduled by the court.

16 (5) All costs associated with assessment and treatment shall be the re-  
 17 sponsibility of the parents of the juvenile or juvenile offender according  
 18 to their ability to pay based upon the sliding fee scale established pur-  
 19 suant to section 16-2433, Idaho Code. The financial obligation of the family  
 20 shall be determined after consideration of all available payment and fund-  
 21 ing sources including title XIX of the social security act, as amended, all  
 22 available third party sources, and parent resources according to any order  
 23 for child support under chapter 10, title 32, Idaho Code. Services shall not  
 24 be conditioned upon transfer of custody or parental rights.

25 SECTION 12. That Section 20-515, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 20-515. FAILURE TO OBEY SUMMONS, A CONTEMPT -- WARRANT. If any person  
 28 summoned as herein provided shall, without reasonable cause, fail to appear,  
 29 he may be proceeded against for contempt of court. In case the summons cannot  
 30 be served, or the parties served fail to obey the same, or in any case when it  
 31 shall be made to appear to the judge that the service will be ineffectual, or  
 32 that the welfare of the juvenile offender requires that he be brought forth-  
 33 with into the custody of the court, a warrant or a *capias* may be issued for the  
 34 parent, guardian or the juvenile offender.

35 SECTION 13. That Section 20-516, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 20-516. APPREHENSION AND RELEASE OF JUVENILES -- DETENTION. (1) A  
 38 peace officer may take a juvenile into custody, or a private citizen may  
 39 detain a juvenile until the juvenile can be delivered forthwith into the  
 40 custody of a peace officer, without order of the court:

41 (a) When he has reasonable cause to believe that the juvenile has com-  
 42 mitted an act which would be a misdemeanor or felony if committed by an  
 43 adult; or

44 (b) When in the presence of a peace officer or private citizen the ju-  
 45 venile has violated any local, state or federal law or municipal ordi-  
 46 nance; or



(c) When there are reasonable grounds to believe the juvenile has committed a status offense. Status offenses are truancy, running away from or being beyond the control of parents, guardian, or legal custodian and curfew violations. Status offenders shall not be placed in any jail facility but instead may be placed in juvenile shelter care facilities, except in the case of runaways, when there is a specific detention request from a foreign jurisdiction to hold the juvenile pending transportation arrangements.

(2) A peace officer may take a juvenile into custody upon a written order or warrant signed by a judge. The judge may issue the order or warrant after finding that there is reasonable cause to believe that the juvenile comes within the purview of this chapter. Such taking into custody shall not be deemed an arrest. Jurisdiction of the court shall attach from the time the juvenile is taken into custody. When an officer takes a juvenile into custody, he shall notify the parent, guardian or custodian of the juvenile as soon as possible. Unless otherwise ordered by the court, or unless it appears to the officer taking the juvenile into custody that it is contrary to the welfare of society or the juvenile, such juvenile shall be released to the custody of his parent or other responsible adult upon written promise, signed by such person, to bring the juvenile to the court at a stated time. Such written promise shall be submitted to the court as soon as possible. If such person shall fail to produce the juvenile as agreed, or upon notice from the court, a summons for such person may be issued by the court and a warrant may be issued for apprehension of the juvenile.

(3) A juvenile taken into custody may be fingerprinted and photographed. Any fingerprints and photographs taken shall be forwarded as provided in subsection (8) of this section. If the court finds good cause it may order any fingerprints and photographs expunged.

(4) When a juvenile is not released he shall be taken forthwith to the court or place of detention specified by the court and then not later than twenty-four (24) hours, excluding Saturdays, Sundays and holidays, shall be brought before the court for a detention hearing to determine where the juvenile will be placed until the next hearing. Status offenders shall not be placed in any jail facility, but instead may be placed in juvenile shelter care facilities.

Placements may include, but are not limited to, the following:

- (a) Parents of the juvenile;
- (b) Relatives of the juvenile;
- (c) Foster care;
- (d) Group care;
- (e) A juvenile detention ~~facility~~ center; or
- (f) Community-based diversion programs.

(5) The person in charge of a detention ~~facility~~ center shall give immediate notice to the court that the juvenile is in his custody.

(6) No juvenile shall be held in detention longer than twenty-four (24) hours, exclusive of Saturdays, Sundays and holidays, unless a petition has been filed and the court has signed the detention order.

(7) As soon as a juvenile is detained by court order, his parents, guardian or legal custodian shall be informed by notice in writing on forms

1 prescribed by the court that they may have a prompt hearing regarding release  
2 or detention.

3 (8) A juvenile taken into detention for an offense shall be finger-  
4 printed and photographed. Fingerprints and photographs taken of juveniles  
5 shall be forwarded to the appropriate law enforcement agency and filed with  
6 the bureau of criminal identification of the Idaho state police which shall  
7 create a juvenile offender fingerprint file and enter the fingerprint data  
8 into the automated fingerprint identification system. ~~The fingerprint data~~  
9 ~~shall then be forwarded to the department to be maintained in a statewide~~  
10 ~~juvenile offender information system. Access to the information in the ju-~~  
11 ~~venile offender system shall be controlled by the department, subject to the~~  
12 ~~provisions of section 9-342, Idaho Code.~~ If the court finds good cause it may  
13 order the fingerprints and photographs of the juvenile offender expunged.

14 (9) Peace officers' records of juveniles shall be kept separate from  
15 records of adults and shall be subject to disclosure according to chapter 3,  
16 title 9, Idaho Code.

17 SECTION 14. That Section 20-517, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 20-517. DETENTION ACCOMMODATIONS. (1) The county commissioners shall  
20 provide a detention facility center for the detention of juveniles offenders  
21 to be conducted by the court, or, subject to the approval of the court, by  
22 other appropriate public agency, provided that such detention shall comply  
23 with the provisions of section 20-518, Idaho Code; or within the limits of  
24 funds provided by the county commissioners ~~the court may arrange for the use~~  
25 ~~of private homes for such detention, subject to the supervision of the court~~  
26 ~~or other agency, or may arrange with any institution or agency to receive for~~  
27 ~~temporary care and custody juveniles within the jurisdiction of the court,~~  
28 ~~provided said private individual or agency facilities, except relatives~~  
29 ~~of the juvenile, shall meet the licensing requirements as provided in this~~  
30 ~~chapter for care of juveniles. Nothing herein shall prevent a jail facility~~  
31 ~~from being utilized as a detention facility if it complies with the provi-~~  
32 ~~sions of section 20-518, Idaho Code.~~

33 (2) For the purpose of carrying out the provisions of this section,  
34 the county commissioners may enter into contracts or agreements with pub-  
35 lic or private agencies, individuals, other counties, or the department of  
36 juvenile corrections which may include the expenditures of moneys outside  
37 the county boundaries. If the county in which the court is located has made  
38 an agreement with another governmental unit or agency located outside the  
39 county or the judicial district for the detention of juveniles offenders  
40 under this act, then any court in the county may order a juvenile offender  
41 detained outside of the county or outside of the judicial district in the de-  
42 tention facility center described in such agreement. All detention centers  
43 in this section shall be in compliance with section 20-518, Idaho Code, and  
44 IDAPA 11.11.02.

45 (3) The county wherein any court has entered an order for the detention  
46 of a juvenile offender outside of the county or outside of the judicial dis-  
47 trict as provided by subsection (2) of this section shall pay all direct and  
48 indirect costs of the detention of the juvenile offender to the governmental  
49 unit or agency owning or operating the detention facility center in which the

1 juvenile offender was detained. The amount of such cost may be determined  
 2 ~~on a per day per juvenile basis~~ by agreement between the county wherein the  
 3 court entered the order of detention and the county or governmental unit or  
 4 agency owning or operating such detention ~~facility center~~.

5 (4) All ~~funds moneys~~ appropriated by the state for the planning and de-  
 6 sign of regional detention ~~facilities centers~~ shall be administered and dis-  
 7 tributed by the director of the department of administration for the plan-  
 8 ning and design of regional detention ~~facilities centers~~ in accordance with  
 9 the requirements or directives of such appropriation. In administering such  
 10 ~~fund moneys~~, the director of the department of administration shall consult  
 11 with the designated county officials of every county involved or affected by  
 12 a proposed regional detention ~~facility center~~ and shall abide by the deci-  
 13 sion of the designated representatives of each of the counties so involved or  
 14 affected.

15 SECTION 15. That Section 20-518, Idaho Code, be, and the same is hereby  
 16 amended to read as follows:

17 20-518. STANDARDS FOR DETENTION. The following shall be minimum stan-  
 18 dards for the detention of juveniles provided for in section 20-517, Idaho  
 19 Code:

20 (1) Juvenile detention ~~facilities centers~~ must be so constructed  
 21 and/or maintained as to keep juveniles segregated from adult offenders with  
 22 there to be no contact as to sight and/or sound between the two (2) classes.  
 23 Those juveniles being treated as adult offenders pursuant to section 20-508  
 24 or 20-509, Idaho Code, may be housed in a juvenile detention center if so  
 25 ordered by the court. Such juveniles may be housed in the general juvenile  
 26 population without sight and sound separation if it is determined by the  
 27 detention administration that the safety and security of the other juveniles  
 28 would not be at risk.

29 (2) Juvenile detention ~~facilities centers~~ must provide supervision  
 30 and observation of juveniles sufficient to protect the physical and mental  
 31 health of the detainees.

32 (3) Juveniles held in detention must be provided with at least three (3)  
 33 adequate and nutritional meals per day.

34 (4) Juveniles held in detention must have access to reading materials  
 35 on a regular and systematic basis. Detained juveniles may receive books,  
 36 newspapers and periodicals from any source ~~are including delivery to the de-~~  
 37 ~~tention center by family members,~~ subject to the right of detention author-  
 38 ities to inspect and remove dangerous or harmful materials. Detention au-  
 39 thorities may forbid the introduction into holding quarters of obscene books  
 40 or periodicals.

41 (5) A visiting program shall be established in juvenile detention  
 42 ~~facilities centers~~ which will allow for family visits to each juvenile for at  
 43 least two (2) hours each week.

44 (6) The juvenile detention ~~facility center~~ shall meet the standards and  
 45 rules set forth in IDAPA 05.01.02 and IDAPA 11.11.02.

46 (7) Notwithstanding any other provision in this chapter, the minimum  
 47 standards set forth herein shall not apply to any person who attains his or  
 48 her eighteenth birthday prior to beginning or while in detention. When such

1 person attains his or her eighteenth birthday, he or she shall be transferred  
2 from juvenile detention to the county jail.

3 SECTION 16. That Section 20-520, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 20-520. SENTENCING. (1) Upon the entry of an order finding the juve-  
6 nile offender is within the purview of the act, the court shall then hold a  
7 sentencing hearing in the manner prescribed by the Idaho juvenile rules to  
8 determine the sentence that will promote accountability, competency devel-  
9 opment and community protection. Prior to the entry of an order disposing  
10 of the case, other than an order of discharge or dismissal, the court may re-  
11 quest and, if requested, shall receive a report containing the results of  
12 an inquiry into the home environment, past history, competency development,  
13 prevention or out of home placement services provided, and the social, phys-  
14 ical and mental condition of the juvenile offender. The court shall not con-  
15 sider or review the report prior to the entry of an order of adjudication.  
16 Upon presentation and consideration of the report by the court, the court may  
17 proceed to sentence the juvenile offender as follows:

18 (a) Place the juvenile offender on formal probation for a period not to  
19 exceed three (3) years from the date of the order, except the court may  
20 place a juvenile offender on formal probation for a period not to exceed  
21 the juvenile's offender's twenty-first birthday if the court finds that  
22 the juvenile offender has committed a crime of a sexual nature;

23 (b) Sentence the juvenile offender to detention pursuant to this act  
24 for a period not to exceed thirty (30) days for each act, omission or  
25 status which is prohibited by the federal, state, local or municipal  
26 law or ordinance by reason of minority only. The sentence shall not be  
27 executed unless the act, omission or status is in violation of section  
28 922(x) of title 18, United States Code, or the court finds that the juve-  
29 nile offender has violated the court's decree imposing the sentence as  
30 provided below.

31 If the court, after notice and hearing, finds that a juvenile  
32 offender has violated the court's decree imposing the sentence under  
33 circumstances that bring the violation under the valid court order ex-  
34 ception of the federal juvenile justice and delinquency prevention act  
35 of 1974, as amended, the court may commit the juvenile offender to de-  
36 tention for the period of detention previously imposed at sentencing;

37 (c) Commit the juvenile offender to a period of detention, pursuant to  
38 this act, for a period of time not to exceed ninety (90) days for each un-  
39 lawful or criminal act the juvenile offender is found to have committed,  
40 if the unlawful or criminal act would be a misdemeanor if committed by an  
41 adult, or where the juvenile offender has been adjudicated as an habit-  
42 ual status offender;

43 (d) If the juvenile offender has committed an unlawful or criminal act  
44 which would be a felony if committed by an adult, the court may commit  
45 the juvenile offender to detention for a period not to exceed one hun-  
46 dred eighty (180) days for each unlawful or criminal act;

47 (e) Whenever a court commits a juvenile offender to a period of deten-  
48 tion ~~it~~ the juvenile detention center shall notify the school district  
49 where the detention ~~facility~~ center is located. No juvenile offender

1 who is found to come within the purview of the act for the commission of a  
2 status offense shall be sentenced to detention in a jail facility unless  
3 an adjudication has been made that the juvenile offender is an habitual  
4 status offender;

5 (f) Commit the juvenile offender to detention and suspend the sentence  
6 on specific probationary conditions;

7 (g) The court may suspend or restrict the juvenile's offender's driving  
8 privileges for such periods of time as the court deems necessary, and  
9 the court may take possession of the juvenile's offender's driver's li-  
10 cense. The juvenile offender may request restricted driving privileges  
11 during a period of suspension, which the court may allow if the juvenile  
12 offender shows by a preponderance of evidence that driving privileges  
13 are necessary for his employment or for family health needs;

14 (h) The court may order that the juvenile offender be examined or  
15 treated by a physician, surgeon, psychiatrist or psychologist, or that  
16 he receive other special care, or that he submit to an alcohol or drug  
17 evaluation, if needed, and for such purposes may place the juvenile  
18 offender in a hospital or other suitable facility;

19 (i) The court may order that the ~~department of health and welfare con-~~  
20 ~~duct~~ county probation office authorize a comprehensive substance abuse  
21 assessment of the juvenile offender. After receiving the comprehensive  
22 substance abuse assessment, and upon a finding by the court that treat-  
23 ment will provide a cost-effective means of achieving the sentencing  
24 goals of accountability, competency development and community protec-  
25 tion, the court may order that the juvenile offender receive immediate  
26 treatment for substance abuse in keeping with a plan of treatment ap-  
27 proved by the court. The initial cost of the assessment and treatment  
28 shall be borne by the department of ~~health and welfare~~ juvenile cor-  
29 rections with funds allocated to the county probation office. The  
30 director of the department of ~~health and welfare~~ juvenile corrections  
31 may promulgate rules consistent with this paragraph ~~(i)~~ to establish a  
32 schedule of fees to be charged to parents by the ~~department of health and~~  
33 ~~welfare~~ county probation office for such services based upon the cost of  
34 the services and the ability of parents to pay;

35 (j) In support of an order under the provisions of this section, the  
36 court may make an additional order setting forth reasonable conditions  
37 to be complied with by the parents, the juvenile offender, his legal  
38 guardian or custodian, or any other person who has been made a party to  
39 the proceedings, including, but not limited to, restrictions on visi-  
40 tation by the parents or one (1) parent, restrictions on the juvenile's  
41 offender's associates, occupation and other activities, and require-  
42 ments to be observed by the parents, guardian or custodian;

43 (k) The court may make any other reasonable order which is in the best  
44 interest of the juvenile offender or is required for the protection of  
45 the public, except that no person under the age of eighteen (18) years  
46 may be committed to jail, prison or a secure facility which does not meet  
47 the standards set forth in section 20-518, Idaho Code, unless jurisdic-  
48 tion over the individual is in the process of being waived or has been  
49 waived pursuant to section 20-508 or 20-509, Idaho Code. The court may

1 combine several of the above-listed modes of disposition where they are  
2 compatible;

3 (l) An order under the provisions of this section for probation or  
4 placement of a juvenile offender with an individual or an agency may  
5 provide a schedule for review of the case by the court;

6 (m) Order the proceeding expanded or altered to include consideration  
7 of the cause pursuant to chapter 16, title 16, Idaho Code;

8 (n) Order the case and all documents and records connected therewith  
9 transferred to the magistrate division of the district court for the  
10 county where the juvenile offender and/or parents reside if different  
11 than the county where the juvenile offender was charged and found to  
12 have committed the unlawful or criminal act, for the entry of a disposi-  
13 tional order;

14 (o) Order such other terms, conditions, care or treatment as appears to  
15 the court will best serve the interests of the juvenile offender and the  
16 community;

17 (p) The court shall assess a twenty dollar (\$20.00) detention/pro-  
18 bation training academy fee against the juvenile offender for every  
19 petition filed where there has been an adjudication that the juvenile  
20 offender is within the purview of this chapter. All moneys raised pur-  
21 suant to this paragraph shall be transmitted by the court for deposit in  
22 the juvenile corrections fund which is created in section 20-542, Idaho  
23 Code;

24 (q) Additionally, the court shall assess a fee of sixty cents (60¢)  
25 per hour of community service against the juvenile offender for every  
26 petition filed where there has been an adjudication that the juvenile  
27 offender is within the purview of this chapter and the court is ordering  
28 community service. Such fee is to be remitted by the court to the state  
29 insurance fund for purposes of providing worker's compensation insur-  
30 ance for persons performing community service pursuant to this chapter.  
31 However, if a county is self-insured and provides worker's compensation  
32 insurance for persons performing community service pursuant to the pro-  
33 visions of this chapter, then remittance to the state insurance fund is  
34 not required;

35 (r) Commit the juvenile offender to the legal custody of the depart-  
36 ment of juvenile corrections for an indeterminate period of time not to  
37 exceed the juvenile's offender's nineteenth birthday, unless the cus-  
38 tody review board determines that extended time in custody is necessary  
39 to address competency development, accountability, and community pro-  
40 tection; provided however, that no juvenile offender shall remain in  
41 the custody of the department beyond the juvenile's offender's twenty-  
42 first birthday. The department shall adopt rules implementing the cus-  
43 tody review board and operations and procedures of such board;

44 (s) Notwithstanding any other provision of this section, a court may  
45 not commit a juvenile offender under the age of ten (10) years to a pe-  
46 riod of detention or to the custody of the department of juvenile cor-  
47 rections for placement in secure confinement.

48 (2) When an order is entered pursuant to this section, the juvenile  
49 offender shall be transported to the facility or program so designated by the  
50 court or the department, as applicable, by the sheriff of the county where

1 the juvenile offender resides or is committed, or by an appointed agent.  
 2 When committing a juvenile offender to the department, or another entity,  
 3 the court shall at once forward to the department or entity a certified copy  
 4 of the order of commitment.

5 (3) Unless the court determines that an order of restitution would be  
 6 inappropriate or undesirable, it shall order the juvenile offender or his  
 7 parents or both to pay restitution to or make whole any victim who suffers an  
 8 economic loss as a result of the juvenile's offender's conduct in accordance  
 9 with the standards and requirements of sections 19-5304 and 19-5305, Idaho  
 10 Code. The amount of restitution which may be ordered by the court shall not  
 11 be subject to the limitations of section 6-210, Idaho Code. Court-ordered  
 12 restitution shall be paid prior to any other court-ordered payments unless  
 13 the court specifically orders otherwise. The clerk of the district court,  
 14 with the approval of the administrative district judge, may use the proce-  
 15 dures set forth in section 19-4708, Idaho Code, for the collection of the  
 16 restitution.

17 (4) The court may order the juvenile's offender's parents, legal  
 18 guardian or custodian to pay the charges imposed by community programs or-  
 19 dered by the court for the juvenile offender, or the juvenile's offender's  
 20 parents, legal guardian or custodian.

21 (5) Any parent, legal guardian or custodian violating any order of the  
 22 court entered against the person under the provisions of this chapter shall  
 23 be subject to contempt proceedings under the provisions of chapter 6, title  
 24 7, Idaho Code.

25 SECTION 17. That Section 20-521, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 20-521. HABITUAL STATUS OFFENDER. (1) Any juvenile offender who has  
 28 been adjudicated for commission of two (2) status offenses within twelve  
 29 (12) months may be charged, petitioned and adjudicated as an habitual sta-  
 30 tus offender for the third status offense committed within that twelve (12)  
 31 month period.

32 (2) The court may utilize any dispositional alternative for an habit-  
 33 ual status offender that is detailed in section 20-520, Idaho Code, except  
 34 that the juvenile offender shall not be placed in ~~the~~ an Idaho juvenile  
 35 ~~corrections~~ correctional center.

36 SECTION 18. That Section 20-522, Idaho Code, be, and the same is hereby  
 37 amended to read as follows:

38 20-522. JURISDICTION OVER PARENTS. Whenever a juvenile offender is  
 39 found to come under the purview of this chapter, the court shall have ju-  
 40 risdiction and authority to have the juvenile offender and the juvenile's  
 41 offender's parent(s), legal guardian or custodian sign a probationary  
 42 contract with the court containing terms and conditions that the juve-  
 43 nile offender and the juvenile's offender's parent(s), legal guardian or  
 44 custodian must adhere to as a condition of the juvenile's offender's pro-  
 45 bation. The probationary contract may provide that upon a violation or  
 46 breach of the terms and conditions of the probationary contract, the juve-  
 47 nile's offender's parent(s), legal guardian or custodian shall be liable to

1 the court for a specific monetary sum not in excess of one thousand dollars  
 2 (\$1,000) for the breach of contract. All such moneys shall be payable to  
 3 the court and shall be in addition to any other fines, penalties or other  
 4 sanctions provided by law. Any moneys received by the court pursuant to  
 5 this section shall be paid into the juvenile corrections fund created in  
 6 section 20-542, Idaho Code. In lieu of or in addition to a monetary payment,  
 7 the court may order that the parent(s), legal guardian or custodian attend  
 8 parenting classes or undergo other treatment or counseling. Any person vi-  
 9 olating any order of the court entered under the provisions of this section  
 10 shall be subject to contempt proceedings under the provisions of chapter 6,  
 11 title 7, Idaho Code.

12 SECTION 19. That Section 20-524, Idaho Code, be, and the same is hereby  
 13 amended to read as follows:

14 20-524. SUPPORT OF JUVENILE OR JUVENILE OFFENDER -- REIMBURSEMENT FOR  
 15 COSTS INCURRED. (1) Whenever a juvenile or juvenile offender is placed by  
 16 the court in custody other than that of ~~the juvenile's~~ his or her parents,  
 17 guardian or custodian, after due notice to the parent, guardian or other  
 18 persons legally obligated to care for and support the juvenile or juvenile  
 19 offender, and after a hearing, the court may order and decree that the parent  
 20 or other legally obligated person shall pay in such a manner as the court  
 21 may direct a reasonable sum that will cover in whole or in part the support  
 22 and treatment of the juvenile or juvenile offender. If the parent or other  
 23 legally obligated person willfully fails or refuses to pay such sum, the  
 24 court may proceed against him for contempt, or the order may be filed and  
 25 shall have the effect of a civil judgment.

26 (2) If the juvenile or juvenile offender is detained, the court may or-  
 27 der that the parents or other legal guardian of the juvenile or juvenile of-  
 28 fender contribute to the costs of detention in an amount to be set by the  
 29 court. The order may be filed and shall have the effect of a civil judgment.  
 30 It is the intent of the legislature that foster parents or a parent or legal  
 31 guardian receiving public assistance relating to that juvenile or juvenile  
 32 offender should not benefit from the continued receipt of payments or public  
 33 assistance from any state or federal agency while the juvenile or juvenile  
 34 offender is detained. The department of health and welfare is directed to  
 35 promulgate a rule implementing this intent.

36 ~~(3) All child support orders shall notify the obligor that the order~~  
 37 ~~will be enforced by income withholding pursuant to chapter 12, title 32,~~  
 38 ~~Idaho Code.~~

39 ~~(4) Failure to include these provisions does not affect the validity of~~  
 40 ~~the support order or decree. The court shall require that the social secu-~~  
 41 ~~rity numbers of both the obligor and obligee be included in the order or de-~~  
 42 ~~ecree.~~

43 SECTION 20. That Section 20-524A, Idaho Code, be, and the same is hereby  
 44 amended to read as follows:

45 20-524A. DEPARTMENT'S PAYMENT OF DETENTION COSTS. If the juvenile  
 46 offender is committed to the custody of the department of juvenile correc-  
 47 tions pursuant to chapter 5, title 20, Idaho Code, the department shall



1 reimburse the county for the period of time in excess of five (5) calendar  
 2 days during which the juvenile offender is housed at a detention ~~facility~~  
 3 center. This time period shall begin to run on the first business day the  
 4 department receives a copy of the order of commitment, executed by the court.  
 5 Orders received by the department after 3 o'clock p.m., mountain standard  
 6 time, on a business day, will be considered to have been received the next  
 7 business day. Facsimile transmissions of the order are acceptable.

8 SECTION 21. That Section 20-525, Idaho Code, be, and the same is hereby  
 9 amended to read as follows:

10 20-525. RECORDS -- PRIVILEGED INFORMATION. (1) The court shall main-  
 11 tain records of all cases brought before it. In proceedings under this act  
 12 the following juvenile courtroom proceedings and records shall be open to  
 13 the public: all proceedings against a juvenile offender of the age of four-  
 14 teen (14) years or older and who is petitioned or charged with an offense  
 15 which would be a felony if committed by an adult including the court docket,  
 16 petitions, complaints, information, arraignments, trials, sentencings,  
 17 probation violation hearings and dispositions, motions and other papers  
 18 filed in any case in any district; transcripts of testimony taken by the  
 19 court; and findings, verdicts, judgments, orders, decrees and other papers  
 20 filed in proceedings before the court of any district.

21 (2) Juvenile courtroom proceedings and records shall remain confiden-  
 22 tial when the court and the prosecutor agree extraordinary circumstances ex-  
 23 ist that justify records of a juvenile offender of the age of fourteen (14)  
 24 years or older and who is petitioned or charged with an offense which would be  
 25 a felony if committed by an adult should remain confidential because it is in  
 26 the best interest of the juvenile offender.

27 (3) In proceedings under this act the following records and court pro-  
 28 ceedings of juveniles offenders of the age of thirteen (13) years or younger  
 29 shall not be withheld from public inspection, except on court order, which  
 30 order must be made in writing in each case: the court docket, petitions, com-  
 31 plaints, information, arraignments, trials, sentencings, probation viola-  
 32 tion hearings and dispositions, motions and other papers filed in any case  
 33 in any district; transcripts of testimony taken by the court; and findings,  
 34 verdicts, judgments, orders, decrees and other papers filed in proceedings  
 35 before the court of any district.

36 (4) These records shall be open to inspection according to chapter 3,  
 37 title 9, Idaho Code. All information obtained and social records prepared in  
 38 the discharge of official duty by an employee of the court shall be subject to  
 39 disclosure according to chapter 3, title 9, Idaho Code.

40 (5) The victim of misconduct shall always be entitled to the name of the  
 41 juvenile offender involved, the name of the juvenile's ~~offender's~~ parents  
 42 or guardian, and their addresses and telephone numbers, if available in the  
 43 records of the court.

44 (6) Notwithstanding the other provisions of this act and notwithstand-  
 45 ing any order entered pursuant hereto, nothing in this act shall prohibit the  
 46 exchange of records created pursuant to this act between prosecuting attor-  
 47 neys or courts in this state.

1       SECTION 22. That Section 20-525A, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3       20-525A. EXPUNGEMENT OF RECORD -- HEARING -- FINDINGS NECESSARY --  
4 SPECIAL INDEX -- EFFECT OF ORDER. (1) Any person who has been adjudicated  
5 in a case under this act and found to be within the purview of the act for  
6 having committed a felony offense or having been committed to the depart-  
7 ment of juvenile corrections may, after the expiration of five (5) years  
8 from the date of termination of the continuing jurisdiction of the court,  
9 or, in case the juvenile offender was committed to the juvenile corrections  
10 correctional center, five (5) years from the date of his release from the  
11 juvenile corrections correctional center, or after reaching age eighteen  
12 (18) years, whichever occurs last, petition the court for the expungement of  
13 his record. Upon the filing of the petition, the court shall set a date for a  
14 hearing and shall notify the prosecuting attorney of the pendency of the pe-  
15 tition and of the date of the hearing. The prosecuting attorney and any other  
16 person who may have relevant information about the petitioner may testify at  
17 the hearing.

18       (2) Any person who has been adjudicated in a case under this act and  
19 found to be within the purview of the act for having committed misdemeanor or  
20 status offenses only and not having been committed to the department of ju-  
21 venile corrections may, after the expiration of one (1) year from the date  
22 of termination of the continuing jurisdiction of the court or after reaching  
23 age eighteen (18) years, whichever occurs later, petition the court for the  
24 expungement of his record. Upon the filing of the petition, the court shall  
25 set a date for a hearing and shall notify the prosecuting attorney of the pen-  
26 dency of the petition and the date of the hearing. The prosecuting attorney  
27 and any other person who may have relevant information about the petitioner  
28 may testify at the hearing.

29       (3) In any case where the prosecuting attorney has elected to utilize  
30 the diversion process or the court orders an informal adjustment pursuant to  
31 section 20-511, Idaho Code, the person may, after the expiration of one (1)  
32 year from the date of termination of the continuing jurisdiction of the court  
33 or after reaching age eighteen (18) years, whichever occurs later, petition  
34 the court for the expungement of his record. Upon the filing of the peti-  
35 tion, the court shall set a date for a hearing and shall notify the prosecut-  
36 ing attorney of the pendency of the petition and the date of the hearing. The  
37 prosecuting attorney and any other person who may have relevant information  
38 about the petitioner may testify at the hearing.

39       (4) The court may not expunge a conviction for any of the following  
40 crimes from a juvenile's offender's record:

- 41       (a) Administering poison with intent to kill (18-4014, Idaho Code);
- 42       (b) Aggravated battery (18-907, Idaho Code);
- 43       (c) Armed robbery (chapter 65, title 18, Idaho Code);
- 44       (d) Arson (chapter 8, title 18, Idaho Code);
- 45       (e) Assault with intent to commit a serious felony (18-909, Idaho
- 46       Code);
- 47       (f) Assault with intent to murder (18-4015, Idaho Code);
- 48       (g) Assault or battery upon certain personnel, felony (18-915, Idaho
- 49       Code);

- 1 (h) Forcible sexual penetration by use of a foreign object (18-6608,  
2 Idaho Code);
- 3 (i) Infamous crime against nature, committed by force or violence (18-  
4 6605, Idaho Code);
- 5 (j) Injury to child, felony (18-1501, Idaho Code);
- 6 (k) Kidnapping (18-4501, Idaho Code);
- 7 (l) Murder of any degree (18-4001 and 18-4003, Idaho Code);
- 8 (m) Rape, excluding statutory rape (18-6101 and 18-6108, Idaho Code);
- 9 (n) Ritualized abuse of a child (18-1506A, Idaho Code);
- 10 (o) Sexual exploitation of a child (18-1507, Idaho Code);
- 11 (p) Unlawful use of destructive device or bomb (18-3320, Idaho Code);
- 12 (q) Voluntary manslaughter (18-4006 1., Idaho Code);
- 13 (r) A violation of the provisions of section 37-2732(a)(1)(A), (B) or  
14 (C), Idaho Code, when the violation occurred on or within one thousand  
15 (1,000) feet of the property of any public or private primary or sec-  
16 ondary school, or in those portions of any building, park, stadium or  
17 other structure or grounds which were, at the time of the violation, be-  
18 ing used for an activity sponsored by or through such a school;
- 19 (s) A violation of the provisions of section 37-2732B, Idaho Code, re-  
20 lated to drug trafficking or manufacturing of illegal drugs.

21 (5) If the court finds after hearing that the petitioner has not been  
22 adjudicated as a juvenile offender for any of the crimes identified in sub-  
23 section (4) of this section, and has not been convicted of a felony, or of a  
24 misdemeanor wherein violence toward another person was attempted or commit-  
25 ted since the termination of the court's jurisdiction or his release from the  
26 juvenile ~~corrections~~ correctional center, and that no proceeding involving  
27 such felony or misdemeanor is pending or being instituted against him, and if  
28 the court further finds to its satisfaction that the petitioner has been held  
29 accountable, is developing life skills necessary to become a contributing  
30 member of the community and that the expungement of the petitioner's record  
31 will not compromise public safety, it shall order all records in the peti-  
32 tioner's case in the custody of the court and all such records, including law  
33 enforcement investigatory reports and fingerprint records, in the custody  
34 of any other agency or official sealed; and shall further order all refer-  
35 ences to said adjudication, diversion or informal adjustment removed from  
36 all indices and from all other records available to the public. However, a  
37 special index of the expungement proceedings and records shall be kept by the  
38 court ordering expungement, which index shall not be available to the public  
39 and shall be revealed only upon order of a court of competent jurisdiction.  
40 Copies of the order shall be sent to each agency or official named in the or-  
41 der. Upon the entry of the order the proceedings in the petitioner's case  
42 shall be deemed never to have occurred and the petitioner may properly reply  
43 accordingly upon any inquiry in the matter. Inspection of the records may  
44 thereafter be permitted only by the court upon petition by the person who is  
45 the subject of the records or by any other court of competent jurisdiction,  
46 and only to persons named in the petition.

47 SECTION 23. That Section 20-526, Idaho Code, be, and the same is hereby  
48 amended to read as follows:

1        20-526. ENCOURAGING VIOLATIONS. Any person who by any act or neglect  
 2 encourages, aids or causes a juvenile to come within the purview or jurisdic-  
 3 tion of this chapter, or who after notice that the driving privileges of the  
 4 juvenile offender have been suspended or restricted under the provisions of  
 5 this chapter knowingly permits or encourages said juvenile offender to op-  
 6 erate a motor vehicle in violation of such suspension or restriction, shall  
 7 be guilty of a misdemeanor. The court may impose conditions upon any per-  
 8 son found guilty under this section, and so long as such person shall comply  
 9 therewith to the satisfaction of the court, the sentence imposed may be sus-  
 10 pended.

11        SECTION 24. That Section 20-528, Idaho Code, be, and the same is hereby  
 12 amended to read as follows:

13        20-528. APPEALS. All orders or final judgments made by any court in  
 14 matters affecting a juvenile offender within the purview of this act may  
 15 be appealed by the juvenile offender or the state. A decision by the court  
 16 pursuant to section 20-508, Idaho Code, not to waive jurisdiction under  
 17 this act over the juvenile offender may be appealed by the state. Appeals  
 18 shall be reviewed as provided by the appellate rules of the supreme court of  
 19 Idaho, except no undertaking shall be required. Upon filing of the notice  
 20 of appeal, the district court shall take jurisdiction of the case and if the  
 21 juvenile offender is in detention shall promptly hold a hearing after the  
 22 filing of a request to determine whether the juvenile offender shall remain  
 23 in detention.

24        SECTION 25. That Section 20-530, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26        20-530. REASSESSMENT OF COMMITTED JUVENILES OFFENDERS -- RECORDS --  
 27 FAILURE TO REASSESS. (1) The department shall make periodic reassessments  
 28 of all juveniles offenders committed to it for the purpose of determining  
 29 whether existing orders and dispositions in individual cases should be mod-  
 30 ified or continued in force. Assessments may be made as frequently as the  
 31 department considers desirable and shall be made with respect to every juve-  
 32 nile offender at intervals not exceeding one (1) year. Reports of periodic  
 33 reassessments made pursuant to this section shall be filed with the court  
 34 from which the juvenile offender was committed.

35        (2) The department shall keep written records of assessments, progno-  
 36 sis, and all orders concerning disposition or treatment of every juvenile  
 37 offender committed to it.

38        (3) Failure of the department to assess a committed juvenile offender  
 39 or to reassess him within one (1) year of a previous assessment shall not of  
 40 itself entitle the juvenile offender to discharge from the control of the de-  
 41 partment but shall entitle him to petition the committing court for an order  
 42 of discharge and the court shall discharge him unless the department satis-  
 43 fies the court of the need for further control.

44        SECTION 26. That Section 20-531, Idaho Code, be, and the same is hereby  
 45 amended to read as follows:

1        20-531. SECURE FACILITIES. (1) The department shall maintain and op-  
 2 erate secure facilities for the custody of juvenile offenders who pose a dan-  
 3 ger of serious bodily harm to others or who have engaged in a pattern of seri-  
 4 ous criminal offenses, and who cannot be controlled in a less secure setting.

5        (2) The department shall provide or make available to juvenile offend-  
 6 ers in secure facilities, instruction appropriate to the age, needs and  
 7 range of abilities of the juveniles offenders. An assessment shall be made  
 8 of each juvenile offender at the secure facility to determine abilities,  
 9 learning disabilities, interests, attitudes and similar matters. Training  
 10 in the development of competency and life skills designed to assist the ju-  
 11 venile offender in operating effectively within and becoming a contributing  
 12 member of the community shall be provided. Prevocational education shall be  
 13 provided to acquaint juvenile offenders with vocations, their requirements  
 14 and opportunities.

15        (3) The department shall place juvenile offenders committed to the de-  
 16 partment in a state or privately operated secure facility that provides hu-  
 17 mane care and developmental opportunities for the juvenile offender while  
 18 promoting accountability and community protection.

19        (4) The department shall adopt standards, policies and procedures for  
 20 the regulation and operation of secure facilities. Such standards, policies  
 21 and procedures shall not be inconsistent with law. Policies shall be promul-  
 22 gated as rules in compliance with chapter 52, title 67, Idaho Code.

23        SECTION 27. That Section 20-532, Idaho Code, be, and the same is hereby  
 24 amended to read as follows:

25        20-532. TERM OF COMMITMENT -- REVIEW AFTER COMMITMENT. A juvenile of-  
 26 fender committed to a secure facility shall remain until the juvenile of-  
 27 fender reaches nineteen (19) years of age, is retained for extended custody  
 28 pursuant to section 20-520(1)(r), Idaho Code, or is released or discharged.  
 29 A juvenile offender committed to a secure facility shall appear before the  
 30 department within ninety (90) days after commitment, for review of treatment  
 31 plans.

32        SECTION 28. That Section 20-532A, Idaho Code, be, and the same is hereby  
 33 amended to read as follows:

34        20-532A. ORDER FOR APPREHENSION AND DETENTION OF ESCAPEES FROM CUS-  
 35 TODY. Upon a finding by the Idaho department of juvenile corrections that  
 36 a juvenile offender in the custody of the department has escaped from cus-  
 37 tody, a written order signed by the director or his designee shall be a suf-  
 38 ficient order for detention for any law enforcement officer to apprehend and  
 39 take into custody such person. It is hereby made the duty of all sheriffs,  
 40 police, constables, parole officers, prison officials and other peace offi-  
 41 cers, to execute such order. From and after the issuance of the detention or-  
 42 der and until taken into custody, the escapee shall be considered a fugitive  
 43 from justice. Upon apprehension, the juvenile offender shall be detained in  
 44 the closest available detention center and shall thereafter be transported  
 45 by the department as soon as possible or, at the discretion of the detaining  
 46 authority, the juvenile offender may be transported directly by that author-  
 47 ity to the department's nearest regional facility.

1       SECTION 29. That Section 20-533, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3       20-533. RELEASE FROM CUSTODY OF THE DEPARTMENT. (1) The department  
4 shall determine an appropriate date for release of the juvenile offender  
5 from the custody of the department, based upon guidelines established by  
6 the department. The department shall review and update policy guidelines  
7 annually.

8       (2) Juvenile offenders may be released to their own home, to a residen-  
9 tial ~~community-based~~ community-based program, to a nonresidential ~~community~~  
10 ~~based~~ community-based treatment program, to an approved independent living  
11 setting, or to other appropriate residences, but shall remain on probation  
12 until the probation is terminated by the court. Following the release of a  
13 juvenile offender, the court may conduct a hearing to review the juvenile's  
14 offender's conditions of probation and determine whether existing condi-  
15 tions should be amended or eliminated or additional conditions imposed.

16       (3) County probation officers shall enforce probation conditions and  
17 supervise juvenile offenders while on probation. As authorized by court  
18 order, probation officers may establish additional reasonable conditions  
19 of probation with which the juvenile offender must comply. The juvenile  
20 offender may move for a hearing before the court to contest any conditions  
21 imposed by the probation officer. If the probation officer establishes  
22 additional conditions of probation, the probation officer shall advise the  
23 juvenile offender at the time such additional conditions are imposed of the  
24 juvenile's offender's right to move the court for a hearing to contest those  
25 conditions.

26       (4) When the department is considering release of a juvenile offender  
27 committed to the department for confinement, the department shall notify the  
28 prosecuting attorney of the county from which the juvenile offender was com-  
29 mitted to confinement, the judge whose order caused the juvenile offender to  
30 be committed to confinement and the victims of the juvenile offender's un-  
31 lawful conduct.

32       SECTION 30. That Section 20-533A, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34       20-533A. COMPLIANCE WITH OPEN MEETING LAW -- EXECUTIVE SESSIONS AU-  
35 THORIZED -- CONFIDENTIALITY OF RECORDS. (1) All meetings of the custody re-  
36 view board of the Idaho department of juvenile corrections shall be held in  
37 accordance with the open meeting law as provided in chapter 23, title 67,  
38 Idaho Code, provided however:

39       (a) Deliberations and decisions of the board concerning whether or not  
40 a juvenile offender shall be held in custody of the Idaho department  
41 of juvenile corrections for an extended period of time past his or her  
42 nineteenth birthday may be made in executive session; and

43       (b) Votes of individual members in custody decisions shall not be made  
44 public, provided that the board shall maintain a record of the votes of  
45 the individual members as required in subsection (2) of this section.

46       (2) A written record of the vote to retain the juvenile offender in cus-  
47 tody for an extended period of time by each board member in each case reviewed  
48 by that member shall be produced by the board. Such record shall be kept con-

1 confidential and privileged from disclosure, provided the record shall be made  
2 available upon request to the governor, the chairman of the senate judiciary  
3 and rules committee and the chairman of the house of representatives judi-  
4 ciary, rules and administration committee for all lawful purposes.

5 (3) A board member or employee of the Idaho department of juvenile cor-  
6 rections who distributes to any person not specifically listed in this sec-  
7 tion any hearing information or records that are legally required to be kept  
8 confidential shall be guilty of a misdemeanor.

9 (4) Nothing contained in this section shall prevent any person from ob-  
10 taining the results of any action by the board or director of the Idaho de-  
11 partment of juvenile corrections without reference to the manner in which  
12 any member voted, and the board shall make such information public unless do-  
13 ing so would violate public records laws.

14 (5) Nothing contained in this section shall prevent the director, des-  
15 ignated staff of the director, the governor, the chairman of the senate ju-  
16 diciary and rules committee or the chairman of the house of representatives  
17 judiciary, rules and administration committee from attending any meeting,  
18 including any executive session, of the custody review board.

19 SECTION 31. That Section 20-535, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21 20-535. REVIEW OF PROGRAMS FOR JUVENILES OFFENDERS -- CERTIFICA-  
22 TION. The department shall annually review all state operated or state  
23 contracted programs which provide services to juvenile offenders and cer-  
24 tify compliance with standards provided by the department. Written reviews  
25 shall be provided to the managers of those programs. Based upon policies  
26 established by the department, those programs which are unable or unwilling  
27 to comply with approved standards may not be certified. Any person owning  
28 or operating a private facility who willfully fails to comply with the stan-  
29 dards established by the department shall be guilty of a misdemeanor.

30 SECTION 32. That Section 20-539A, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 20-539A. DISTRIBUTION AND REPORTING REQUIREMENTS FOR STATE, OTHER  
33 PUBLIC AND PRIVATE CONTRACT FACILITIES. Each facility housing juvenile  
34 offenders in department custody, whether a state, other public or private  
35 contract facility, shall comply with the following requirements for dis-  
36 bursement and reporting:

37 (1) State facilities, upon receiving any moneys credited to a juvenile  
38 offender in its custody, shall deposit the funds in the juvenile corrections  
39 victim restitution fund pursuant to section 20-539, Idaho Code.

40 (2) Other public or private contract facilities housing juveniles  
41 offenders in department custody, upon receiving any moneys credited to or  
42 earned by a juvenile offender at the facility, shall directly distribute  
43 the moneys on or before the first day of each calendar quarter to the county  
44 court that committed the juvenile offender to department custody. Upon  
45 remitting moneys to a county on behalf of a juvenile offender, the facility  
46 shall report the direct distribution to the department for inclusion in the  
47 department's records.

1       SECTION 33. That Section 20-542, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3       20-542. JUVENILE CORRECTIONS FUND -- CREATION. There is hereby cre-  
4 ated in the state treasury, the juvenile corrections fund. Moneys in the  
5 fund shall be utilized by the department for construction and administra-  
6 tion of facilities under the jurisdiction of the department of juvenile  
7 corrections, for assistance to a county or series of counties in construct-  
8 ing, contracting for or administering detention facilities for juveniles  
9 offenders, to coordinate training for juvenile detention officers and/or  
10 juvenile probation officers, and for alternative programs designed to help  
11 juveniles avoid the traditional juvenile corrections system. All moneys in  
12 the fund may be expended only pursuant to appropriation by the legislature.

13       SECTION 34. That Section 20-547, Idaho Code, be, and the same is hereby  
14 amended to read as follows:

15       20-547. CONSTRUCTION OF ACT -- CITATION OF ACT -- OTHER CODE REFER-  
16 ENCES CONSTRUED. This act shall be liberally construed to the end that the  
17 legislative policy expressed herein is achieved. This act may be cited as  
18 the "Juvenile Corrections Act of 1995." ~~On and after the effective date of~~  
19 ~~this act, any citation in the Idaho Code to chapter 18, title 16, Idaho Code,~~  
20 ~~shall be understood and construed as a citation to chapter 5, title 20, Idaho~~  
21 ~~Code, unless the context otherwise requires.~~

22       SECTION 35. That Section 20-548, Idaho Code, be, and the same is hereby  
23 amended to read as follows:

24       20-548. COMPENSATION -- AMOUNT -- CREDITING ACCOUNT OF JUVENILE  
25 OFFENDER -- JUVENILES OFFENDERS NOT EMPLOYEES. Each juvenile offender who is  
26 engaged in productive work under the jurisdiction of the director of the de-  
27 partment of juvenile corrections may receive for this work such compensation  
28 as the director shall determine, to be paid out of any funds available in the  
29 department of juvenile corrections competency development account. After  
30 payment of restitution pursuant to section 20-538, Idaho Code, compensation  
31 shall be credited to the account of the juvenile offender to be used for  
32 payment of fines, reimbursement to the department of juvenile corrections  
33 for expenses directly related to that juvenile offender, and upon certain  
34 circumstances, payment to the juvenile offender upon release from the de-  
35 partment of juvenile corrections.

36       No juvenile offender compensated under this act shall be considered an  
37 employee of the state or the department of juvenile corrections, nor shall  
38 any juvenile offender come within any of the provisions of the worker's com-  
39 pensation law, or be entitled to any benefits thereunder whether on behalf of  
40 himself or any other person.

41       SECTION 36. That Section 20-549, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43       20-549. CURFEW VIOLATIONS -- CITATION -- NOTIFICATION. Violation by  
44 a juvenile offender of a curfew established by a municipal or county or-



1     dinance shall be punishable by a fine not to exceed three hundred dollars  
2     (\$300), detention, or both. Fines shall be deposited in the county juvenile  
3     justice fund of the county where the violation occurred, or if such a fund  
4     has not been established, then in the current county expense account for  
5     juvenile corrections purposes in the county where the violation occurred.  
6     The imposition of detention shall be subject to the provisions of sections  
7     20-520(1) (~~bc~~) and 20-521, Idaho Code. Detention of a juvenile offender in  
8     a county jail or detention center for violation of a curfew is prohibited,  
9     unless the juvenile offender is an habitual status offender as defined in  
10    section 20-521, Idaho Code.

11     Any peace officer may issue a citation for violation of a curfew that  
12     shall thereafter proceed under the juvenile corrections act in the same man-  
13     ner as though the violation was charged by a petition. Citations shall be is-  
14     sued on the Idaho uniform citation form. The peace officer issuing a curfew  
15     citation may detain the violator and at the time the citation is issued shall  
16     make a reasonable effort to obtain the endorsement of the juvenile's par-  
17     ent or legal guardian on the citation. If the endorsement of a parent or le-  
18     gal guardian cannot be obtained with the exercise of reasonable diligence, a  
19     copy of the citation shall be hand delivered or mailed to the juvenile's par-  
20     ent or legal guardian by a peace officer at least seven (7) days prior to the  
21     date set for the juvenile's appearance. The citation shall provide a date  
22     certain for the appearance before a magistrate of the juvenile and parent or  
23     legal guardian.

24     When sentencing a juvenile offender for violating a curfew, the court  
25     may also enter any order authorized in section 20-520, Idaho Code. The court  
26     shall have jurisdiction over the parent or legal guardian of the violator  
27     pursuant to section 20-522, Idaho Code.